United Nations A/C.3/59/SR.22

General Assembly
Fifty-ninth session

Official Records

Distr.: General
14 December 2004

Original: English

Third Committee

Summary record of the 22nd meeting
Held at Headquarters, New York, on Friday, 22 October 2004, at 10 a.m.

Chairman: Mr. Kuchinsky ..... (Ukraine)

Contents

Agenda item 102: Programme of activities for the International Decade of the World's Indigenous People, 1995-2004 (*continued*)

This record is subject to correction. Corrections should be sent under the signature of a member of the delegation concerned *within one week of the date of publication* to the Chief of the Official Records Editing Section, room DC2-750, 2 United Nations Plaza, and incorporated in a copy of the record.

Corrections will be issued after the end of the session, in a separate corrigendum for each Committee.

04-56665 (E)

The meeting was called to order at 10.20 a.m.

Agenda item 102: Programme of activities for the International Decade of the World's Indigenous People, 1995-2004 (*continued*) (A/59/257, 258 and 277; A/C.3/59/L.13)

1. **Ms. Futschek** (New Zealand) said that in a world in which too many indigenous peoples continued to suffer discrimination New Zealand was frustrated by the slow pace of the negotiations on the draft declaration on the rights of indigenous peoples and by the failure of some States and some indigenous groups to recognize that the draft text would require amendments; no amendments would mean no declaration. In September, New Zealand and six other countries had submitted an amended draft text which sought to ensure that the declaration was consistent with international human rights law and humanitarian law, to protect individual, collective and third-party rights, and to address the need to safeguard the territorial integrity and political unity of States. The response to that initiative had been pleasing, and at its most recent meeting the Working Group on Indigenous Populations had seen the prospect of agreement on over half the draft articles. It was important to build on that momentum.

2. New Zealand did not believe that declaring decades was a substitute for action. If there was to be another indigenous decade, it would have to be shaped around the work of the Permanent Forum on Indigenous Issues and focus on practical results. The lead role in moving the indigenous agenda forward lay in fact with the Permanent Forum; with its dynamic approach it had overtaken the ineffectual Working Group.

3. **Mr. Vegas** (Peru) said that the Peruvian Government had made solid progress in promoting the rights of indigenous peoples, a process intrinsically linked with the delivery of sustainable development, democracy and human rights.

4. Ten years after the beginning of the International Decade of the World's Indigenous People, some progress had been made in solving the problems but much remained to be done. The cultural wealth of indigenous peoples was inversely proportional to their income levels and they were more seriously affected by poverty and inequalities. During the violence in Peru between 1980 and 2000, 75 per cent of the victims had had a native language as their mother tongue, but indigenous peoples made up only 16 per cent of the total population. In that context, the Government was committed to giving priority to the full participation of indigenous peoples and ethnic minorities.

5. It was regrettable that the negotiations on the draft declaration had not borne the expected fruit. The peculiarities of the Working Group and the intransigent positions adopted in it had caused the negotiations to stagnate. But more recently the Working Group had achieved an unprecedented degree of agreement and might produce a definitive text in the foreseeable future.

6. His delegation was in favour of declaring a second decade for indigenous peoples in order to consolidate the achievements of the first and to seek further improvements for all indigenous peoples. It also drew attention to the Andean Charter for the Promotion and Protection of Human Rights, in which the Presidents of the Andean countries recognized that their indigenous peoples and their communities of African descent were entitled to develop their identities and customs in the cultural, spiritual, political, economic and legal spheres.

7. His delegation had read with particular interest the first report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (A/59/258), which only confirmed the sufferings of persons of indigenous origin and the need for the international community to find concrete solutions.

8. **Mr. Abel** (Myanmar) noted that not withstanding the International Decade the Special Rapporteur had concluded that the achievements to date were modest in comparison with the original high expectations. The recommendation by the Economic and Social Council for the proclamation of a second decade therefore merited serious consideration.

9. Myanmar was home to some 135 ethnic groups, called "national races", which had always co-existed through good times and bad. His delegation agreed with the Special Rapporteur that the traditional emphasis on economic growth was unproductive when the social and cultural spheres were excluded. The Government had established 12 economic, social and political objectives for the national races with a view to achieving their well-rounded development. A separate ministry for the development of border areas and

national races had been set up in 1992 to cater specifically for the needs of citizens residing in remote border areas, giving particular attention to infrastructure development. As a result, there had been a significant improvement in the quality of life of once impoverished areas.

10. The rights of the national races could be fully realized only through their representation in political processes. The Government therefore attached priority to their participation in the National Convention, which was establishing the principles for a new democratic constitution. Sixty per cent of the delegates to the National Convention were from national races. It had discussed such vital issues as power sharing, and once a democratic constitution had been adopted the national races would be able to elect leaders of their choice.

11. **Mr. Cumberbatch Miguén** (Cuba) said that near the end of the first International Decade there was every indication of the need to continue the work and to make a renewed effort to secure full recognition of all the human rights of indigenous peoples. Major progress had been made, notably with the establishment of the Permanent Forum, not to mention the contributions of the Working Group and the Special Rapporteur. But much remained to be done. The consequences of the colonization begun more than 500 years earlier were still on the national and international agendas; the latest development was the way in which the world's riches were distributed under neo-liberal globalization. That conclusion had been emphasized in paragraph 100 of the Working Group's report on its twenty-first session (E/CN.4/Sub. 2/2003/22).

12. It was clear that the mandates of the three mechanisms dealing with indigenous issues were quite different but complementary. The reciprocal presentation of their annual reports by the Chairmen of the Permanent Forum and the Working Group had enabled the two bodies to avoid duplication and to work more effectively. The practice should be made mandatory. In addition, collaboration with the Working Group gave the Special Rapporteur access to valuable information both from indigenous groups and from Governments. One of the most visible results of the collaboration between the Permanent Forum and the Working Group was their joint effort to coordinate initiatives.

13. Those two bodies had also called for the proclamation of a second international decade. His delegation was promoting the adoption of a draft resolution to that end, which would also refer to a programme of action based on an evaluation of the results of the first Decade. That evaluation would certainly point to the proven success of some of the activities and to the obvious failings. The point of reference should of course be the opinions of the indigenous peoples themselves.

14. His delegation was concerned about the situation in the Working Group with regard to the draft declaration on the rights of indigenous peoples. It was to be hoped that the Working Group would conclude its deliberations shortly, so that the draft declaration could be added to the Decade's achievements.

15. **Ms. Ström** (Sweden), speaking on behalf of the Nordic countries, said that, as the International Decade of the World's Indigenous People came to a close, it was time to consider ways to maintain the focus on its overall objective, which was to improve the lives of the world's indigenous peoples through cooperation in such areas as human rights, culture, the environment, development, education and health. The activities of the Decade had clearly placed the situation of indigenous peoples on the international agenda, and had raised awareness about the ways in which indigenous peoples contributed to the common assessment of challenges affecting humanity as a whole, for example, its relationship with the environment. Those activities had also served to bring together indigenous peoples from different regions of the world.

16. The Permanent Forum on Indigenous Issues remained the main achievement of the Decade. Since its establishment, it had addressed such important issues as the situation of indigenous children and youth and that of indigenous women. It had also focused on developing its working methods and strengthening its cooperation with the United Nations system.

17. Another central goal of the Decade, the drafting of a declaration on the rights of indigenous people, might soon be within reach. Important progress had been made at the recent meeting of the Working Group in Geneva, and the momentum of those negotiations should continue through the session to be held in December. She stressed the importance of the work of the Special Rapporteur on the situation of human rights

and fundamental freedoms of indigenous people, and noted that the close cooperation and dialogue between the Special Rapporteur and the Permanent Forum was pivotal.

18. **Mr. Zheglov** (Russian Federation) said that the establishment of the Permanent Forum had completed the system of United Nations bodies dealing with indigenous issues at the international level. It was important for representatives of indigenous peoples to be involved in the work of those bodies, for they could make a substantial contribution to the drafting of the declaration and to the work of the Permanent Forum and the Working Group. The support of the United Nations Voluntary Fund for Indigenous Populations was enabling increasing numbers of indigenous people to do precisely that. One of the new approaches to emerging problems was based on the principle of free, prior and informed agreement devised by the Working Group; that principle would become the foundation of cooperation between Governments and indigenous peoples.

19. It was obvious that the problems of indigenous peoples could not be solved exclusively at the international level. The matter was a priority for Russia, whose indigenous minorities enjoyed all rights and opportunities on an equal footing with the rest of the population. The governmental authorities had been giving increased attention to consolidating the legislative basis of the relations between the State and indigenous peoples, the protection of whose rights was guaranteed by a broad array of federal laws. One of the economic priorities was to move from direct budgetary support of indigenous regions to the creation of favourable conditions for their sustained self-development.

20. Practical improvements were also being made: for example, the building of infrastructure under the State programme for the development of the economy and cultures of the minority peoples of the North and other economic and social development programmes for the same peoples. The State programme, "Children of the North", occupied a special place among such measures, including as it did the development of the latest technologies for the medical treatment of children in the specific natural and climatic conditions of the North. In addition, the education of indigenous children was an integral part of the whole education system and was based on the principle of the right to education in one's mother tongue.

21. His delegation wished to draw particular attention to the measures of support for the Finno-Ugrian peoples: a decision had been taken to establish a compendium of their cultural heritage; publications were issued in their languages; and greater use was being made of those languages in the mass media. Social assistance was also being furnished on the ground. The Republic of Karelia had adopted a law on state support for the Karelian, Vep and Finnish languages. The Khanty-Mansi Autonomous Area had more than 40 laws concerning indigenous peoples, and the Ugrian State University had been established there in 2001. Many of Russia's other regions had special programmes for the promotion of the languages and cultures of the Finno-Ugrian peoples.

22. Although the problems of the world's indigenous peoples were far from being solved, the International Decade had given a powerful boost to the protection of their interests and rights. But a number of the Decade's goals had not been attained, and the Russian Federation was therefore in favour of a second decade.

23. **Ms. Fonseca** (Venezuela) said that the rights of indigenous peoples were guaranteed in the Constitution in such areas as their social, political and economic organization and their language, culture, beliefs and traditions. Furthermore, the State acknowledged the duty to promote access to land ownership, whether individually or collectively, for indigenous groups. As part of its effort to meet the Millennium Development Goals, the Government had also developed plans and policies to assist the most disadvantaged groups in society, including many indigenous communities.

24. Through the Permanent Forum on Indigenous Issues, indigenous communities themselves could make recommendations on matters affecting their economic, social and cultural development. Her delegation believed that it was important to continue and strengthen international cooperation on indigenous issues by negotiating a declaration on the rights of indigenous people. Venezuela had participated in the ongoing negotiations, and was also studying a draft declaration in that area by the Organization of American States.

25. The many valuable contributions of indigenous groups to society could not be ignored. Venezuela had begun a process of constructing a new multi-ethnic democracy and a society based on intercultural values. Its indigenous communities had made major progress

in achieving recognition of their individual and collective rights, but much remained to be done to recognize their true contribution to human history.

26. **Mr. Porter** (European Commission) said that the end of the International Decade of the World's Indigenous People provided an opportunity to take stock of the progress achieved and to reflect on the way forward. Members of the European Union had made a commitment to integrate the concern for indigenous peoples as a cross-cutting aspect at all levels of development cooperation, which had translated into an effort to mainstream indigenous peoples' issues into the European Commission's own practices and working methods by inviting them to participate in the programming, design, implementation and evaluation of development projects. Another result of the increased awareness of their concerns had been to identify the fight against discrimination and the promotion of their rights as priorities within the European Initiative for Democracy and Human Rights.

27. The Commission was launching a call for proposals to support the participation of indigenous peoples in international and regional organizations and to support activities aimed at the ratification and implementation of International Labour Organization (ILO) Convention No. 169. Preference would be given to proposals presented by indigenous organizations.

28. The Commission shared the satisfaction expressed at the establishment of the Permanent Forum on Indigenous Issues and the appointment of the Special Rapporteur on the human rights of indigenous people. It welcomed the open dialogue taking place within the working group on the draft declaration. The European Commission was committed to the promotion and protection of the rights of the world's indigenous peoples and would build on the positive momentum created by the Decade.

29. **Mr. Rao** (World Intellectual Property Organization (WIPO)) said that WIPO had been involved for some time in issues relating to the protection and promotion of intellectual property of concern to indigenous communities. The WIPO General Assembly had established the Intergovernmental Committee on Traditional Knowledge, Genetic Resources and Expressions of Folklore in 2000 to address those issues.

30. The mandate of the Intergovernmental Committee was to discuss intellectual property issues arising from access to genetic resources and benefit sharing, protection of traditional knowledge and traditional cultural expressions or expressions of folklore, with special focus on the international dimensions of those questions.

31. The intellectual property aspects of traditional knowledge could be broken down into two key themes, defensive protection and positive protection. Defensive protection aimed at ensuring the other parties did not obtain intellectual property rights over pre-existing traditional knowledge, for example, traditional-knowledge databases that could be used as evidence of prior art to challenge a claim to a patent based on such knowledge. Positive protection focused on the use of intellectual property rights over protected material either to exclude others' use of the material or to use it oneself. Despite the conceptual differentiation made between the two types of protection, they were not mutually exclusive.

32. Another specific issue raised was whether the existing intellectual property regime provided an adequate framework for protection, or if there was a need for a *sui generis* system which would take into account the fact that traditional knowledge was not individually owned and time-bound, because such knowledge was owned and shared by the community and passed from generation to generation. Other matters under debate were who should be protected, what should be protected and how, along with the issue of public domain.

33. WIPO adopted an approach to its work that was both empirical, based on fact-finding missions and surveys, and practical, aimed at capacity-building and providing assistance and cooperation with a range of national, regional and international initiatives. Ultimately, WIPO hoped that its members would agree to an instrument or instruments that safeguarded the protection of the traditional knowledge and cultural expressions of indigenous people.

34. **Mr. Nepal** (Nepal) said that, in view of important institutional developments like the establishment of the Permanent Forum on Indigenous Issues, the progress made in the Working Group on the draft declaration and the appointment of the Special Rapporteur, his delegation supported the proclamation of the second International Decade of the World's Indigenous People.

35. Nepalese society was composed of different ethnic groups, languages, religions, cultures and traditions, and the development of all groups was the foundation for peace, prosperity and harmony. Nepal had undertaken legal, administrative and institutional measures to safeguard the interests of various ethnic and indigenous groups. The Constitution of 1990 guaranteed human rights and fundamental freedoms and prohibited discrimination based on religion, race, sex, caste or ideology. Each community had the right to its language, culture and traditional religion. Election of representatives under the constitutional monarchy and the multiparty system of democracy had allowed all groups to have greater participation in decision-making. The National Foundation for the Development of Indigenous Nationalities and the National Dalit Commission had been established for the purpose of mainstreaming the concerns of those and other vulnerable groups. However, financial and technical resources were scarce, and he appealed for international assistance to complement national development efforts.

The meeting rose at 11.30 a.m.